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AUTHOR Locke, Patricia
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ABSTRACT

Postsecondary education and all of Indian education are tied to the tribes, the complexities of Indian law, and the tribal powers of self-government which in turn are based on treaties with the U.S. government. Since 1789, treaty relations were entered with nearly every tribe and band within th. U.S. territorial limits. Part of the consideration for the treaty promises of education was the cession of almost one billion acres of Indian land. Some have regarded these Indian treaties as transferring control over the affairs of "weak uncivilized and defeated tribes to the sovereign power of the United States". However, the prevailing view has seen Indian treaties as valid agreements between independent sovereigns. Today the Indian Self-Determination and Education Assistance Act reinforces the government-to-government relationship between the individual tribes and the U.S. government. Yet, Federal policy relating to Indian postsecondary education is inconsistent, is not responsible to tribal authority, does not provide for sufficient funding to meet the expressed needs, and is inequitable in its service to tribes. Therefore, 21 tribes have, through enabling legislation, chartered colleges for the primary benefit of their tribal members. As tribes become increasingly aware of how legislation, including education legislation, affects the reinforcement or diminution of tribal sovereign power, they should become knowledgeable about current legislation affecting tribal education, i.e., the Indian Education Act, the Indian College Bill, and the reauthorization of Title IV. (NQ)

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# *INDIAN POSTSECONDARY EDUCATION AND THE LAW*

*Patricia Locke*
*Boulder, Colorado*
*April 1978*

Paper delivered at Flaming Rainbow/University Without Walls in Tahlequah, Oklahoma.

RC 010487

*INDIAN POSTSECONDARY EDUCATION AND THE LAW*

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*Postsecondary education and all of Indian education are inextricably tied to the tribes, the complexities of Indian law, and the tribal powers of self-government that are in turn based on treaties with the government of the United States.*

*This paper will discuss the sources and principles that form the basis for Indian tribal education, the impact of federal policies and interpretation of legislation on Indian tribal education, the background and state of the art of Indian postsecondary education, and current legislation affecting tribal education.*

## *I. SOURCES AND PRINCIPLES OF INDIAN TRIBAL EDUCATION*

*Since the first days of European immigration, non-Indians have viewed the aboriginal inhabitants of this country as impediments to their concepts of "Manifest Destiny". Education has been utilized as a tool to change and civilize the American Indian so that resistance to land and resource exploitation would be diminished. Overall, federal policies have vacillated between extermination and assimilation of the original landlords since the American Revolution.*

*In 1819, Congress passed a law which provided for the administration of an educational fund for the "civilization" of Indians. The $10,000 annual appropriation was channeled through Christian religious and mission groups that proceeded to divide up Indian country among themselves for proselytizing purposes.*

*The authority for the regulation of American Indians by Congress was delineated by Chief Justice Marshall who declared: "That instrument (the Constitution of the United States) confers on Congress the powers of war and peace; of making treaties, and of regulating commerce with foreign nations and among the several states and with the Indian tribes. These powers comprehend all that is required for the regulation of our intercourse with the Indians. They are not limited by any restrictions on their free actions; the shackles imposed on this power in the Confederation are discarded."*

*Beginning with an Indian treaty submitted to the Senate by President Washington on May 25, 1789, the President and the Senate entered into some treaty relations with nearly every tribe and band within the territorial limits of the United States.*

*Part of the consideration for these treaty promises of education was the cession by various Indian tribes of almost one billion acres of land to the United States. Technical education in agriculture and the mechanical arts were emphasized in treaties such as the Treaty with Sacs and Foxes, March 6, 1861, (school and teacher); Treaty with Crows, May 7, 1868, (teachers); Treaty with Northern Cheyenne and Arapahos, May 10, 1868, (teachers); Treaties with Sioux, April 29, 1868 and March 2, 1889, (teachers); Treaty with Chippewas, March 19, 1867 (school or schools); Treaty with Navajos, June 1, 1868, (teachers); etc.*

*In 1879, the House Committee recommended the establishment of industrial training schools for Indian youth so that "by a removal of the children from all tribal influence during the progress of education....educators can command all the time and attention of their pupils." The committee would utilize abandoned army barracks stating, "Is it not wise economy to occupy these government buildings for the objects contemplated, and employ army officers who are fitted as teachers and otherwise, in connection with such schools, and to vigorously and adequately provide for and enforce the treaty stipulations recited; thereby not only discharging a solemn government obligation and duty, but speedily accomplishing the education, elevation, and civilization of all the savages in our land?" In 1893, Congress authorized the Secretary of the Interior to "withhold rations, clothing, and other annuities from Indian parents or guardians who refuse or neglect to send and keep their children of proper school age in some school a reasonable portion of the year."*

*Until the Citizenship Act of 1924, all Indians did not have the right to attend state-supported schools, even though citizenship had been conferred on some tribes by treaty. The scope of state power over Indians is limited. This limitation is described in United States v. Kagama: "It seems to us that this is within the competency of the Congress. These Indian tribes are the wards of the nation. They are communities dependent on the United States.*

*Dependent largely for their daily food. Dependent for their political rights. They owe no allegiance to the States, and receive from them no protection. Because of the local ill feeling, the people of the States where they are found are often their deadliest enemies...The power of the General Government over these remnants of a race once powerful, now weak and diminished in numbers is necessary to their protection, as well as to the safety of those among whom they dwell. It must exist in that government, because it never has existed anywhere else, because the theatre of its exercise is within the geographical limits of the United States, because it has never been denied, and because it alone can enforce its laws on all the tribes."*

*Other such older decisions regarded Indian treaties as transferring control over the affairs of weak, uncivilized and defeated tribes to the sovereign power of the United States. The prevailing view, however, has seen Indian treaties as valid agreements between independent sovereigns. Felix Cohen described the sources of tribal powers in the following overview: "Perhaps the most basic principle of all Indian law, supported by a host of decisions...is the principle that those powers which are lawfully vested in an Indian tribe are not, in general, delegated powers granted by express acts of Congress, but rather inherent powers of a limited sovereignty which has never been extinguished. Each Indian tribe begins its relationship with the Federal Government as a sovereign power, recognized as such in treaty and legislation. The powers of Sovereignty have been limited from time to time by special treaties and laws designed to take from the Indian tribes control of matters which, in the judgement of Congress these tribes could no longer be safely permitted to handle. The statutes of Congress, then, must be examined to determine the limitations of tribal sovereignty rather than to determine its sources or its positive content. What is not expressly limited remains within the domain of tribal sovereignty."*

## *II. IMPACT OF FEDERAL POLICIES AND PRACTICES*

*In September of 1976, LaFollette Butler, a Cherokee, presented a paper at the National Indian Education Association which described the impact of federal policy, and legislation on the contemporary practice of Indian education. Mr. Butler told how Public Law 93-638, the Indian Self-Determination and Education Assistance Act sets forth a new philosophy and a spirit under which the national government will deal in Indian affairs.*

*The philosophy and spirit is set out in several provisions of the Act. In the congressional findings and Sec. 2.(a) of the Act, the Congress finds that "the prolonged Federal domination of Indian service programs has served to retard rather than enhance the progress of Indian people and their communities by depriving Indians of the full opportunity to develop leadership skills crucial tc the realization of self-government, and has denied to the Indian people an effective voice in the planning and implementation of programs for the benefit of Indians which are responsive to the true needs of Indian communities." In the declaration of policy in Sec. 3.(a), the Congress "hereby recognizes the obligation of the United States to respond to the strong expression of the Indian people for self-determination by assuring maximum Indian participation in the direction of educational as well as other Federal services to Indian communities so as to render such services more responsive to the needs and desires of those communities." In Sec. 3(b), the Congress "declares its commitment to the maintenance of the Federal Government's unique and continuing relationship with and responsibility to the Indian people through the establishment of a meaningful Indian self-determination policy which will permit an orderly transition from Federal domination of programs for and services to Indians to effective and meaningful participation by the Indian people in the planning, conduct, and administration of those programs and services." The Congress left no doubt that the expressions of needs, that the participation by Indians, that the determination of needs and desires, and, that the planning and conduct and administration of programs and services were to be through tribal governments.*

*Sec. 102 of the Act provides that the Secretary "is directed upon the request of any Indian tribe," to enter into contract to plan, conduct and administer programs provided for in the Johnson-O'Malley Act or any program which the Secretary is authorized to administer for the benefit of Indians under the Snyder Act and any act subsequent thereto.*

*In Sec. 4 of the Act to reinforce the commitment that tribal governments are to be dealt with the Congress mandated that when more than one Indian tribe will be served by a contract or grant the approval of each such Indian tribe is a prerequisite to the letting or making of that contract or grant.*

*In Sec. 104 of the Act, the Secretary is authorized "upon the request of any Indian tribe" to make grants for the purpose of strengthening tribal governments.*

*Mr. Butler emphasized that PL 93-638 reinforces the government-to-government relationship between the individual tribes and the U.S. government. He reminded us that Indian leadership has been telling the BIA and other federal agencies for years that it is both legally and morally wrong for the federal government to establish and recognize self-appointed and independent entities of Indians and deal with those Indians, bypassing tribal governments and thereby weakening their ability to govern.*

*Regarding the difference between right and need, Mr. Butler said, "...those of us who are interested in supporting the Congressional commitment to the maintenance of the Federal Government's continuing and unique relationship with Indian people should not confuse Bureau of Indian Affairs programs based on the government-to-government relationship with federal assistance programs which are based on need, which need Indians may have along with other ethnic groups. If the need is met , the federal assistance program ends, or if the Federal Government decides it is a need not to be met by the Federal Government, the program is not initiated or it ceases. It is extremely important to differentiate between the two concepts. I have found that Bureau of Indian Affairs education people are almost always surprised to hear about the government-to-government relationship between tribes and the Federal Government that exists as a legal and historical matter. It is not a basic tenet under which our education people operate."*

*In describing the difference between "self-determination" and "community control", Mr. Butler spoke of community control as it was conceived during the early years of the war on poverty outside of the context of Indian education: "The social engineers who structured the education portions of anti-poverty programs started with the premise that the public schools--classroom teachers and school administrators--were insensitive to the needs of the children of poverty. School systems and school curricula were designed for middle and upper class students. The special needs of the children of poverty were not being met. The Elementary and Secondary Education Act was*

*designed to meet the compensatory education needs of the children of poverty. The designers of the Act did not trust the local schools, the local entities of government to institute the school programs necessary to meet the special needs of the children of poverty. They, therefore, built in the requirements that would permit the people of the community--groups of people below the legal governmental entities already established such as school districts or county or municipal governments--to control so that they could see that the federal monies were spent for programs that would meet the special needs of the children of poverty. Communities, then, that is, entities below the level of governmental entities that had been established were given an opportunity for "self-determination."*

*This was not peculiar to the Elementary and Secondary Education Act. It was also built into the OEO and other programs that were instituted during this period. It was an effort to give local communities power in the form of control of federal funds with which to self-determine needs and provide remedies as against established entities of government. These concepts, "self-determination" and "community control", carried over into Indian affiars in late 1969 and 1970. Because of the unique relationship, the terms did not fit in the context in which they were conceived in regard to non-Indian situations. I think it is fair to say that the leadership in the Bureau at that time saw self-determination and community control in the context of the non-Indian world. They did not understand the unique relationship. The use of these terms conceived for non-Indian application for non-Indian situations and applied to Indian affairs, a different situation, understandably caused great confusion. Administrators of federal assistance programs which were conceived in connection with the war on poverty and made applicable to Indians, applied "self-determination" and "community control" outside the context of tribal government. Some administrators of Bureau of Indian Affairs programs shared in the confusion and began applying in regard to Bureau programs the concepts of "self-determination" and "community control" to entities below the tribal government level. In other words, the Bureau, and I think it's fair to say particularly Education, created entities below the tribal government and dealt with those entities in the name of "self-determination" and "community control" and bypassed the legitimate tribal governments. It was this practice of bypassing tribal governments and thus weakening their ability to govern that was of major concern during the time PL 93-638 was*

being considered by the Congress. The philosophy and spirit of the Act is aimed directly at this practice."

Mr. Butler concluded that we should be striving for tribal education systems: tribal education systems designed to meet the educational needs of Indian children as those needs are identified within the framework of tribal government; tribal education systems that are melded with other programs of the tribes designed to meet the other needs as identified within the framework of tribal government; tribal education systems that have community and parental involvement to the extent and in the manner that tribal government determines rather than as determined by federal officials in Washington.

LaFollette Butler's words incited a good deal of controversy. Unfortunately there are many Indian educators who do not choose to understand the principles and differing concepts he described.

## III. BACKGROUND AND STATE OF THE ART OF INDIAN POSTSECONDARY EDUCATION

The Bureau of Indian Affairs has lacked consistent policy relating to postsecondary education. Prior to 1948, the primary BIA emphasis of postsecondary education was focused on vocational education. Those few American Indians who did enter and graduate from college did so on their own or borrowed resources or from BIA loans.

Postsecondary college appropriations began in FY '48 with a total allocation of $9,390 to aid about 50 students. In 1967, 2,348 students were enrolled in colleges with an overall appropriated amount of $1,913,320. By 1976, 16,000 students were enrolled and a total of $33,119,000 was appropriated. It is significant to note that in 1976, 5,102 qualified Indian applicants for BIA scholarships were not funded. In recent years, many eligible students wishing to attend college and graduate school were not funded due to lack of available monies.

It is obvious that this dramatic increase in Indian college enrollment was, in part, caused by Indians realizing that they, as tribal members, have a right to higher education, that Indians are capable of achieving success in college, that tribal members are encouraged to enter college because tribes need Indian college-educated people to help actualize tribal self-determination and that tribes have rejected the BIA educational policy of vocational education as the only postsecondary goal for tribal members.

The policy that education is a right of American Indians who are members of federally recognized tribes is unassailable. Until recently, there was a general BIA interpretation that education was a privilege for American Indians. The affirmation that education is a right has broad implications. It means that all eligible Indians have a right to avail themselves of sufficient monies to attend school, and it means that the BIA must request sufficient appropriations to enable all who wish, to attend college.

While there has been a rapid increase in the numbers of Indians attending college, the 1970 Census reveals some alarming data. Only 3.5% of all adult Indian males, 16 years of age and older, have completed college. Only 1.5% of rural or reservation Indians of this age have completed college, the lowest proportion of college-educated persons of any population group. Only 1.2% of rural or reservation Indian females have obtained a college education. Of the total Indian population, only 9% of Indian males and 11% of Indian females are professional and technical workers. Only 5.0% of Indian males and 2.4% of Indian females are managers and administrators. In addition, the income of rural Indians presents a picture of total poverty unmatched elsewhere in U.S. society. Almost two-thirds (64%) of all rural/reservation men earn less than $4,000 per year. Indian women nationally have the lowest income of any group. Of all Indian women, 80% earn less than $4,000; 86% of rural/reservation women earn less than $4,000. Added to these dismal statistics is the fact that one-third of all Indian families have an income under $4,000. This is a higher proportion of low-income families than is found in any other group and more than twice the national average. The median income for rural/reservation Indian female-headed families ranges from a high of $4,215 in South Dakota, to a low of $2,221 in Arizona.

The Bureau of Indian Affairs recently released the following table that illustrates the growth rate of Indian students into postsecondary education:

AMERICAN INDIANS INTO HIGHER EDUCATION AND GROWTH RATE FOR YEARS 1967-80, BIA

| YEAR | ENROLLMENT | AMOUNT INCREASE | % OF INCREASES | ANNUAL APPROPRIATION FUNDING |
|---|---|---|---|---|
| 1967 | 2,358 | ----- | ----- | $ 1,193,320 |
| 1968 | 2,660 | 302 | 12.8% | 2,296,000 |
| 1969 | 3,432 | 722 | 29.0% | 3,100,000 |
| 1970 | 4,271 | 839 | 24.4% | 3,848,000 |
| 1971 | 6,623 | 1,352 | 31.7% | 6,098,000 |
| 1972 | 12,438 | 5,815 | 87.8% | 15,248,000 |
| 1973 | 13,326 | 888 | 7.1% | 20,956,000 |
| 1974 | 13,500 | 174 | 1.3% | 22,556,000 |
| 1975 | 14,700 | 1,200 | 8.9% | 31,045,000 |
| 1976[1] | 16,000 | 1,300 | 9.2% | 33,119,000 |
| 1977[1] | 17,000 | 1,000 | 9.0% | 35,956,000 |
| 1978[2] | 29,757 | 4,575 | 57.8% | 40,000,000 |
| 1979[2] | 34,987 | 5,412 | 18.3% | 45,000,000 |
| 1980[2] | 41,390 | 6,403 | 18.3% | 50,000,000 |

[1]Estimates based on current enrollment data.

[2]Projected enrollment based on average increase of period 1967 through 1977.

Before moving away from the Bureau of Indian Affairs postsecondary services, it is important to describe the reactions of Indians at several field hearings held in 1976 to a key BIA policy that was stated in a letter from Wesley K. Sasaki, Branch Chief, Interior Branch, Natural Resources Division, Office of Management and Budget, Executive Office of the President to Stanley Doremus, Deputy Assistant Secretary, Program Development and Budget, Department of the Interior, dated February 24, 1976. It was suggested in this letter that the BIA scholarship program should come off the Band Analysis for the fiscal year 1978 because it would be more equitable to students to have nationwide criteria rather than to have geographically different criteria. The removal of higher education from the Band Analysis was an arbitrary decision by the Office of Management and Budget for FY '78 and one that may be presumed to continue in subsequent years. This arbitrary decision was thought to be

a negative one and is counter to the philosophy inherent in PL 93-638 that tribes have the right to determine through the Band Analysis, priorities of all programs. There should be no compromise of tribal self-determination. PL 93-638 clearly defines the right and the role of the federally recognized tribes in determining all aspects of tribal management functions and programs. At field hearings, concern was expressed that if a major program such as Higher Education Scholarships and Grants is arbitrarily removed from the Band Analysis, then other areas of tribal decision-making might be also arbitrarily removed, thus further denying and preventing tribal participation in decision-making. The OMB fear implied in the action to remove a major decision-making function is that tribes may not make good decisions. This is paternalism in it's most blatant sense. Even more serious is the aspect of possible defiance of the intent and purpose of PL 93-638.

The issue of the Band Analysis as it relates to the budget process was discussed in AIPRC's report Bureau of Indian Affairs Management Study. Some conclusions of the report were:

"The budget process is unique to the extent that the client is supposed to formally participate in the budget request through Band Analysis which allows tribal councils to set priorities for selected programs. However, long range planning capabilities do not exist while the organization of the budget and the planning function is fragmented and ineffective." The recommendation in the study is that a planning system must be created as part of the budget process to include comprehensive tribal needs analyses and long range plans.

Banded program outlays represent approximately $351 million for FY '77. In addition, $313 million in miscellaneous appropriations and trust funds are also outside of the banding process. Thus, more than half of the budget is not determined by Band Analysis." Non-banded programs include aid to public schools, off-reservation boarding schools, facilities and maintenance, education and training-general (also banded), college student assistance ($28,952) and all other career development (also banded).

The evaluation concluded that "although the present organization contains stated budget functions, in some instances the budget formulation and control functions at the area level are organizationally separated. This type of structure limits direct communication and fosters misunderstanding. Re-

*sponsibility for some programs is unclear, because activities are split between the Band Analysis and central office administration."*

*Other observations were: that the planning process only extends 18 months into the future; apparently the audio-visual presentation is not communicating the budget process clearly in the field; tribal willingness to learn and understand the budget system exists, but effective leadership at the BIA agency level is deficient; client participation is a logical and laudable objective and should be supported to improve relations between the tribes and the federal government; such participation is a legal requirement under the Indian Reorganization Act of 1934 which prescribes communication of the tribe requests to OMB and Congress.*

*The report further states that "the extent of present involvement cannot be interpreted as Indian determination of federal spending priorities. Effective tribal participation would include client evaluation of all department programs, not just a portion of BIA expenditures."*

*The discussion of in-Band and out-of-Band by field meeting participants led to broad considerations of special programs that are not now fully within the Band Analysis process of tribal determination of programs and grants. The following data was considered:*

*(A) Annual Appropriations:*

*FY 1976 - $33,119,000 for Higher Education*

*FY 1977 - $35,956,000 for Higher Education*

| *(B) Special Programs BIA Funded (Out-of-Band):* | *FY 1977* |
|---|---|
| *Haskell, SIPI, IAIA* | *$4,500,000* |
| *Navajo Community College* | *4,403,200* |
| *Sinte Gleska* | *300,000* |
| *Lakota Higher Education* | *200,000* |
| *Harvard* | *176,000* |
| *University of New Mexico Law Programs* | *1,250,000* |
| *University of California, Berkeley Masters of Public Health* | *133,000* |
| *University of North Dakota Indian Medical Program* | *250,000* |
| *Oklahoma State University* | *125,000* |
| *American Indian Scholarships* | *500,000* |
| | *$11,837,200* |

*(C) 15 Contract Schools - 5.4 Million Dollars:*

*It was suggested that special programs (not inlcuding SIPI, IAIA and Haskell and the tribally chartered colleges) might consider themselves time-limited because they were initiated to provide a graduate college student service that resulted from a lack of planning for sufficient appropriations for graduate programs by the BIA. It was agreed that the BIA's past failure to provide funds that are proportional to the needs of graduate education has required the emergence of these special programs not now subject to tribal decision-making. This lack of planning for graduate programs has deprived the tribes of a pool of business and education administrators, attorneys, engineers, physicians, health professionals, etc. Thus, we are in the awkward position of trying to comply with PL 93-638 and making this law work through strong tribal participation in the Band Analysis, and at the same time, trying to train graduate Indian professionals that would help the tribes to truly implement PL 93-638.*

*Higher education grants and scholarships must be placed back on the Band Analysis. With the exception of national programs such as Haskell, SIPI, and IAIA, all special programs must be moved back into the Band Analysis, unless they can prove they provide a national service function that could not be managed and operated as effectively by the individual tribes or that would not otherwise be provided. Sinte Gleska, Lakota Higher Education and Navajo Community College are already on the Band Analysis form. Special programs, in order to be exempt from the Band Analysis, must demonstrate that:*

*(1) they are national in scope and provide equitable services to all tribes;*

*(2) they reflect national tribal input into program policy by the institutionalizing of an advisory board of directors that is nominated by tribes from the regions and whose board tenure is regulated by staggered terms of office; and,*

*(3) they are providing services that could not otherwise be provided in the present and immediate future.*

*In summary, federal policy relating to Indian postsecondary education is inconsistent, is not responsible to tribal authority, does not provide for sufficient funding to meet expressed needs and is inequitable in its service to tribes.*

On April 25, 1977, the National Indian Education Association, with the concurrence of the Education Committees of the National Tribal Chairmen's Association and the National Congress of American Indians, submitted several recommendations to the American Indian Policy Review Commission. Those recommendations are attached as an appendix to this statement. The recommendation related to tribally chartered colleges was: "Legislation must be enacted to provide funding for the planning and development of, and for basic operational support to the tribes for their tribally chartered colleges. Support must be provided for tribes who wish to establish four-year and graduate institutions. The funding process must not circumvent the tribal governments but must be consistent with PL 93-638." In discussions leading to this statement, there was agreement that the initiation and functioning of tribally chartered colleges represents a tangible and positive exercise in self-determination by the tribes. It is becoming more and more apparent that dozens of tribes from all over the country have a hunger for education beyond the high school that is now beginning to be satisfied as tribes realize that postsecondary education can be brought to the reservaitons and that it can be designed to be appropriate to their economic and cultural needs.

Indian people think of education as a continuum. Indian adults in their 30's, 40's, 50's, and even 60's can aspire to be lawyers, nurses, teachers, administrators, veterinarians or whatever else is satisfying and productive. It is so important that postsecondary educational opportunities are available locally so that Indians with family and job responsibilities are not forced to leave their reservation homes and move hundreds of miles to cities where education is available. The federal policy of the 1950's and 1960's to relocate Indian adults to the cities was a financial failure and more importantly was destructive to family life. It is astonishing that the BIA apparently has not learned this lesson or articulated this message to the Office of Education and to the Congress. If it had, then more than three out of the 27 tribes would be receiving financial support and technical assistance from the BIA resources to plan and operate college programs.

The following 21 tribes have, through enabling legislation, chartered colleges for the primary benefit of their tribal members:

1. Blackfeet Tribe of Montana
2. Cheyenne River Sioux Tribe of South Dakota
3. Fort Berthold Tribes of North Dakota
4. Fort Peck Sioux and Assiniboine Tribes of Montana
5. Fort Totten Devil's Lake Sioux of North Dakota
6. Havasupai of Arizona
7. Hualapai of Arizona
8. Keweenah Bay Chippewa of Michigan
9. Lummi Tribe of Washington
10. Navajo Tribe of Arizona
11. Northern Cheyenne of Montana
12. North Slope Borough (Inupiat Eskimo) of Alaska
13. Omaha of Nebraska
14. Pine Ridge Sioux of South Dakota
15. Rosebud Sioux of South Dakota
16. Santee Sioux of Nebraska
17. Sisseton-Wahpeton Sioux of South Dakota
18. Standing Rock Sioux of South Dakota
19. Tanana Chiefs (Athabascan) of Alaska
20. Turtle Mountain Chippewa of North Dakota
21. Winnebago of Nebraska

Other Indian/Alaskan Native colleges that are operating to serve tribal entities, but that are not now fully chartered by tribal authority are:

1. Kuskokwim Community College (Yupik Eskimo) of Alaska
2. Flaming Rainbow College (Cherokee) of Oklahoma
3. Northwest Community College (Eskimo) of Alaska

There are three consortia organized to promote and support reservation based tribally chartered colleges. They are: the Montana Indian Higher Education Consortium, consisting of the tribes of the Blackfeet, Crow, Fort Belknap, Fort Peck and Northern Cheyenne; the American Indian Higher Education Consortium; and the Consortium of Colleges for Alaskan Natives consisting of two Alaskan Native colleges, the Tanana Chiefs College and the Inupiat University of the Arctic, and of two non-Native colleges, the Sheldon Jackson College and Alaska Methodist University.

There are several unique characteristics of the burgeoning Indian college trend. These characteristics are:

1. The tendency toward Indian control in management, educational policy, and operation of the college by the tribe and located on-reservation.

2. Tribal enrollees in the colleges range in age from 16 years to 70 years of age. This indicates that local college courses are a great convenience and a necessity for adult members who are economically and culturally bound to their reservations.

3. Funding support for operational needs is scarse and impedes progress. Lack of transportation, facilities, and personnel is due to insufficient funding.

4. Curricula is directed to meet the cultural and economic needs of the individual tribe. There is an increased tribal desire to be educationally prepared to manage tribal programs and contract with federal programs.

5. Student rights or student government appears not to be an issue of the individual tribal schools. This may be because of differing behavior expectations or that students tend to be older and more mature than students in non-Indian colleges.

6. Health care is not formalized. The Indian Public Health Service has not recognized that Indian colleges are growing.

7. The most frequently found model is the dispersed learning center concept. That is, persons in the remote districts that cannot afford transportation need courses brought to them.

8. Tribal-specific cultural and economic development programs are integral to each college.

9. Full time equivalent students per school year range from 34 to 961.

10. Adult basic education, career education, vocational education, as well as academic and cultural education are emphasized in varying degrees by the diverse tribes.

11. Accreditation dependency appears to be a universal problem. Colleges' inability to recognize tribal emminent persons as "competent" or "qualified" is an impediment. Many non-Indian colleges have difficulty with accepting tribal languages as valid.

12. There are varying stages in the assumption of policy control.

After the establishment of the first Indian controlled college, Navajo Community College in 1968, numerous other tribes began to plan for their own higher education programs. They have grown like Topsy.

In October of 1972, the Planning Resources in Minority Education program supported by Western Interstate Commission for Higher Education (WICHE) hard monies, contacted the directors and/or presidents of Navajo Community College, D-Q University, Sinte Gleska Community College, Lakota Higher Education Center; the planners for the Sisseton-Wahpeton, Standing Rock and Turtle Mountain Chippewa tribes and educational personnel from the Institute of American Indian Arts, Haskell Junior College and Southwest Indian Polytechnic Institute, with the purpose of convening these groups for a planning meeting.

One major objective of this meeting was to discuss ways that the OE-Bureau of Higher Education, particularly Title III - Developing Institutions, could become more responsive to Indian higher education. The office of American Indian Affairs in the Health Education and Welfare - Office of Education helped to arrange a Washington, D. C. meeting and to bring in concerned OE - Bureau of Higher Education officials and members from the tribes who needed transportation. WICHE also assisted with expenses. The participants requested that the Director of Planning Resources in Minority Education (PRIME) prepare a proposal to develop a consortium that would serve the existing Indian colleges and that would be submitted to Title III and Title IV-D.

In December of 1972, at the Phoenix, Arizona office of the Navajo Community College, the proposal was modified and accepted and mutual agreements were made to form the American Indian Higher Education Consortium. An attorney, from the Native American Rights Fund, assisted in the proposal revision and drafted the by-laws and constitution of the new organization. AIHEC subsequently received grant monies from Title III and Title IV-D and established offices in Denver, Colorado in July of 1973.

Since 1972, numerous tribes have been assisted by PRIME in planning higher education programs. Tribes have been assisted in conducting planning and feasibility studies, in staff development, in curriculum development, in accreditation searches, accreditation negotiations, in proposal writing and grantsmanship techniques and in other supportive services.

*In 1972 and 1973, PRIME focused much of its attention on the tribes in North Dakota, South Dakota and Nebraska by assisting them with planning and early development of colleges. Recent efforts of PRIME have been directed toward the tribes in Alaska, Montana, Washington, Arizona and Michigan.*

*The following eight tribes are in the early planning stages of the development of college programs:*

1. *The Fort Belknap Tribes of Montana*
2. *The Mississippi Band of Choctaw*
3. *The Crow of Montana*
4. *The Colorado River Tribes of Arizona*
5. *The Makah of Washington*
6. *The White Mountain Apache of Arizona*
7. *The Minnesota Chippewa Tribes*
8. *The Red Lake Chippewa Tribe*

*The 21 tribes having colleges, the consortia, and the 8 tribes that are planning colleges should all be receiving planning and basic operational financial support from federal sources. These tribal college programs are experiencing dire financial problems. Most cannot plan for next month or next semester. A good portion of operating expenses come from meagre tribal resources that are bolstered by faculty and administrators that contribute volunteer services.*

*An example of tribal college struggling to provide needed postsecondary education with meagre financial support, is the Lummi Tribe's School of Aquaculture. The purpose of this college is to enhance the employability of Indians by providing theoretical and applied science training to potential aquaculturists from Indian enterprises across the United States. While emphasis is mainly on fisheries development, the total experience applies to the following areas: surface and ground water resource quality. Suitability of water resources for aquaculture, fisheries and wildlife expansion for recreational purposes, and long-range natural resources conservation program development. Now in its fourth year, the Lummi School of Aquaculture has trained nearly 150 Indian people from 25 tribes from Alaska to Maine. Approximately 25 students graduate per year from this two-year program. Results are solid. Tribal enterprises on the East Coast, and in Arizona, Alaska, Montana, Idaho and Washington are now*

staffed by LSH graduates. As a result of this postsecondary initiative, the Lummi Tribe is in debt about $160,000 and ten staff are now working without pay to complete the current training sessions. On May 1, 1977 the money ran out. $130,000 is needed to finish the session ending in September. The Lummi School of Aquaculture, one of the most innovative of the special focus tribally chartered colleges needs $330,000 per year to operate its program for fifty students. It is difficult to make a more cogent case that tribal self-determination in postsecondary education is working almost in spite of inconsistent federal support.

## IV. CURRENT LEGISLATION AFFECTING TRIBAL EDUCATION

Tribes are increasingly aware of how legislation, including education legislation, affects the reinforcement or diminution of tribal sovereign powers.

Tribes are fortunate that such brilliant and sensitive Indian attornys as Alan Parker and Carl Funke are in the Senate Select Committee on Indian Affairs. Although Indian education has not been designated as a legislative priority by the national tribal organizations, Senate Select Committee staff has consistently been responsive to tribal education needs.

On the House side, the Special Study Group on Indian Education has been conducting hearings in Washington, D. C. as well as spending time in the field to solicit Indian opinion regarding the improvement of education services. Staff has invited Indian educators and tribal leaders to briefings where congressional aides may learn about particular tribal concerns.

Currently, Indians concerned with education should make themselves thoroughly knowledgeable about the following legislation: HR-9810, S-991, the reauthorization of Title IV, the Indian Education Act, the Indian College Bill and legislation introduced by Senator Inouye to include Hawaiians in existing education legislation.

I hope we will discuss during the response period how aspects of these pending legislative initiatives will affect the tribes of which we are all members. We cannot be passive about these issues. It is our responsibility to make recommendations to our tribes so that they can formulate policies to be communicated to the Congress and to our civil servants in Washington, D. C.

As we deliberate our recommendations to our tribes, I hope we remember who we are. We are descendants of honorable and brave men and women who sacri-

*ficed much for us. We are people who must insure the tribal survival of our children, our grandchildren and all of our children of the future.*

# END

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